

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT NEW YORK

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THE BANK OF NEW YORK TRUST  
COMPANY, N.A., as Trustee,

Plaintiff,

- against -

FIRST MAGNUS CAPITAL, INC. and THOMAS  
W. SULLIVAN, SR. as Trustee of the THOMAS  
W. SULLIVAN SR. REVOCABLE TRUST,

Defendants.  
-----X

07 Civ. 8255 (PKC)

**CERTIFICATE OF SERVICE  
OF ORDER TO SHOW  
CAUSE**

I, Kenneth G. Roberts, hereby certify that, on October 2, 2007, I served a true and correct copy of (1) the Order to Show Cause, signed and entered in this action on October 2, 2007, (2) the Declaration of Howard Altschul in Support of Expedited Discovery, dated October 2, 2007, and the exhibits annexed thereto, and (3) the Brief of Plaintiff The Bank of New York Trust Company, N.A. in Support of Order to Show Cause for Expedited Discovery, dated October 2, 2007, on the following persons by Federal Express, by depositing the same, enclosed in a FedEx envelope addressed as follows, into the custody of Federal Express for overnight delivery prior to the latest time designated by Federal Express for overnight delivery:

Gary Malis, CFO  
First Magnus Corp.  
603 North Wilmot Road  
Tucson, AZ 85711

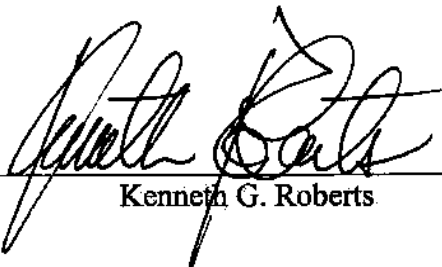
Thomas W. Sullivan, Sr.  
First Magnus Corp.  
603 North Wilmot Road  
Tucson, AZ 85711

I further certify that, on October 2, 2007, at approximately 3:30 p.m. EST, I attempted to fax the same to FMC at (800) 927-1594, but received a voice message stating "this number is not in use." Then, at approximately 4:00 p.m. EST, I called the CEO of First Magnus, G.S. Jaggi, at (520) 618-9101, and the CFO of First Magnus, Gary Malis, at (520) 618-9103, and Thomas W. Sullivan, Sr., at (520) 618-9602, and left a detailed voicemail at each number stating that a lawsuit had been commenced in New York against FMC and Mr. Sullivan; that the court had ordered the parties to appear at a hearing on Friday, October 5, 2007, at 2:00 p.m., in Manhattan;

that I was FedExing copies of the Order to Show Cause and supporting papers to FMC and Mr. Sullivan at 603 North Wilmot Road in Tucson; and that they should call me at (212) 883-4914 if they wanted the papers sent to a different address, or faxed or emailed.

I further certify that, on October 2, 2007, I telephoned and spoke with Christopher H. Bayley, Esq., a Tucson attorney who represents FMC, and Gary L. Fletcher, Esq., a Tucson attorney who represents Mr. Sullivan, and told them the procedural status of this action, and then emailed them a copy of the above papers, together with a copy of the summons and complaint.

Dated: New York, New York  
October 2, 2007

  
\_\_\_\_\_  
Kenneth G. Roberts

**Roberts, Kenneth G.**

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**From:** TrackingUpdates@fedex.com  
**Sent:** Wednesday, October 03, 2007 12:35 PM  
**To:** Roberts, Kenneth G.  
**Subject:** FedEx Shipment 791774881824 Delivered

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This tracking update has been requested by:

Company Name: WOLF BLOCK  
Name: Kenneth Roberts  
E-mail: kroberts@wolfblock.com

---

Our records indicate that the following shipment has been delivered:

Reference: 247121  
Ship (P/U) date: Oct 2, 2007  
Delivery date: Oct 3, 2007 9:28 AM  
Sign for by: J.WALKER  
Delivered to: Receptionist/Front Desk  
Service type: FedEx Standard Overnight  
Packaging type: FedEx Envelope  
Number of pieces: 1  
Weight: 2.00 lb.  
Special handling/Services: Deliver Weekday

Tracking number: 791774881824

Shipper Information  
Kenneth Roberts  
WOLF BLOCK  
250 PARK AVENUE, 10TH FLOOR  
NEW YORK  
NY  
US  
10177

Recipient Information  
Thomas W. Sullivan, Sr.  
First Magnus Corp.  
603 N WILMOT RD  
TUCSON  
AZ  
US  
857112701

Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 11:34 AM CDT on 10/03/2007.

To learn more about FedEx Express, please visit our website at [fedex.com](http://fedex.com).

All weights are estimated.

To track the latest status of your shipment, click on the tracking number above, or visit us at [fedex.com](http://fedex.com).

This tracking update has been sent to you by FedEx on the behalf of the Requestor noted above. FedEx does not validate the authenticity of the

10/3/2007

**Roberts, Kenneth G.**

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**From:** TrackingUpdates@fedex.com  
**Sent:** Wednesday, October 03, 2007 12:35 PM  
**To:** Roberts, Kenneth G.  
**Subject:** FedEx Shipment 791402336990 Delivered

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This tracking update has been requested by:

Company Name: WOLF BLOCK  
Name: Kenneth Roberts  
E-mail: kroberts@wolfblock.com

---

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Special handling/Services: Deliver Weekday

Tracking number: 791402336990

Shipper Information  
Kenneth Roberts  
WOLF BLOCK  
250 PARK AVENUE, 10TH FLOOR  
NEW YORK  
NY  
US  
10177

Recipient Information  
Gary Malis, CFO  
First Magnus Corp.  
603 N WILMOT RD  
TUCSON  
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